



U.S. Department of Justice

Office of the United States Trustee

U.S. COURTS

District of Idaho

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February 27, 2002

304 North 8th Street, Room 347
P.O. Box 110
Boise, Idaho 83701

REF. NO. 02-20218
CAME TO THE CLERK
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OPERATING GUIDELINES
AND
REPORTING REQUIREMENTS FOR CHAPTER 11 CASES

TO: Debtors, their Counsel, and Chapter 11 Trustees
Chapin, Frank & Sydney
Case #02-20218

The United States Trustee supervises the administration of Chapter 11 cases pursuant to 28 U.S.C. § 586(a)(3). You must timely serve the United States Trustee with copies of all documents filed in the case, as delineated in the Federal Rules of Bankruptcy Procedure, any applicable local rule or order of the Bankruptcy Court, and requirements of the United States Trustee. All communications or documents to be served upon the United States Trustee should be directed to the Office of the United States Trustee at the address and telephone number shown above.

The following requirements, the Federal Rules of Bankruptcy Procedure and, applicable local bankruptcy rules must be observed in each Chapter 11 case. Failure to comply with any requirement may result in the United States Trustee or another party moving to dismiss or convert your case or to request other relief.

IF THE DEBTOR OR DEBTOR'S COUNSEL WISH A WAIVER OR MODIFICATION OF ANY OF THESE REQUIREMENTS, A REQUEST MUST BE SUBMITTED IN WRITING STATING THE REASON(S) A WAIVER IS REQUESTED. THE OFFICE OF THE UNITED STATES TRUSTEE WILL APPROVE OR DENY THE REQUEST IN WRITING.

The United States Trustee reserves the right to revise, modify, or amend these guidelines and requirements from time to time and, as appropriate, in an individual case.

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1. BOOKS AND RECORDS

The debtor's books and records must be closed as of the petition filing date. New books and records must be set up to reflect postpetition transactions.

2. BANK ACCOUNTS

Upon the filing of the petition a debtor must follow the following bank account instructions. A debtor engaged in business, must insure that they have separate bank accounts for general operations and taxes or request a waiver from the U.S. Trustee. All accounts must be fully F.D.I.C. or F.S.L.I.C. insured in a depository. The depository must either have an agreement with the Office of the U.S. Trustee to pledge collateral for any funds on deposit in excess of FDIC or FSLIC coverage or sign an Unauthorized Depository certificate provided by the U.S. Trustee agreeing to: 1) notify the U. S. Trustee if F.D.I.C. limit is exceeded and 2) send the U.S. Trustee a copy of the debtor's monthly bank statement. The checks for each account must bear the name of the debtor, the designation "Debtor in Possession", the bankruptcy case number, and the type of account, and must be prenumbered. The debtor must also insure that the depository changes the account title to reflect "Debtor in Possession". Depositories are to be instructed that bank account statements are to run for the period beginning on the first day and ending on the last day of each calendar month. If the debtor changes depositories while in Chapter 11 this office must be notified.

3. MAINTENANCE AND PROOF OF INSURANCE

In order to protect the interests of creditors and the bankruptcy estate, the debtor is required to maintain the following insurance coverage, as appropriate: general comprehensive liability; fire and theft; workers' compensation; vehicle; products liability; fidelity bonds for employees; and other coverage customary in the debtor's business.

Within 20 days after the filing of the petition, the debtor shall provide the United States Trustee with proof of insurance coverage. Such proof of coverage shall consist of certificates of insurance or other verified documents showing that each policy of insurance required for the estate is in full force and effect, and shall disclose the type and extent of coverage, effective dates, name of insurance carrier, and name, address and telephone number of agent. The debtor is responsible for including the United States Trustee as an

addressee for all notices for each insurance policy. Upon expiration or other termination of any coverage, the debtor shall immediately provide the United States Trustee with proof of replacement coverage. The debtor is responsible for making arrangements with the insurer(s) to provide notice to the U.S. Trustee of any payments made under said policy or policies.

4. MEETING OF CREDITORS

Generally, within 20 to 40 days after the order for relief, a meeting of creditors will be held by the United States Trustee. If the United States Trustee designates a place for the meeting which is not regularly staffed by the United States Trustee, the meeting may be held not more than 60 days after the order for relief. The debtor or its representative, if the debtor is a corporation or partnership, and debtor's attorney are required to appear; and in the case of a joint petition, both spouses must appear. The debtor or debtor's representative will be examined under oath by the United States Trustee, creditors, and other parties in interest in attendance.

5. UNITED STATES TRUSTEE QUARTERLY FEES

In accordance with 28 U.S.C. § 1930(a)(6), debtors in possession are required to pay quarterly fees to the United States Trustee in all pending Chapter 11 cases.

The amount of the fee varies depending upon the amount of monies disbursed from the estate during any calendar quarter (or fraction thereof); however, a minimum fee of \$250 is due each quarter even if no disbursements are made. The fee schedule is as follows:

FEE SCHEDULE

TOTAL QUARTERLY DISBURSEMENT		QUARTERLY FEE
up to	14,999.99	\$ 250
less than	74,999.99	500
less than	149,999.99	750
less than	224,999.99	1,250
less than	299,999.99	1,500
less than	999,999.99	3,750
less than	1,999,999.99	5,000
less than	2,999,999.99	7,500
less than	4,999,999.99	8,000
more than	4,999,999.99	10,000

Federal Rule of Bankruptcy Procedure 2015(a)(5) requires a debtor to file with the U.S. Trustee, on or before the last day of the month after each calendar quarter until the case is closed by the Court, or converted or dismissed, whichever occurs first, a statement of disbursements made during such calendar quarter and a statement of the fee required pursuant to 28 U.S.C. § 1930 (a)(6) that has been paid for such calendar quarter.

Fee payments are due no later than one (1) month following each quarter. In order for a plan to be confirmed, all quarterly fees must be paid, or the plan must provide for payment of all fees on the effective date of the plan. 11 U.S.C. § 1129(a)(12).

Quarterly fees must be mailed with the proper transmittal form to:

United States Trustee
Post Office Box 198246
Atlanta, Georgia 30384

If you do not have the proper form, or do not timely receive a bill for quarterly fees from the Executive Office for the United States Trustees, contact this Office of the United States Trustee immediately. Failure to receive a proper transmittal form does not relieve you from responsibility for timely payment.

FAILURE TO PAY THE QUARTERLY FEE IS CAUSE FOR CONVERSION OR DISMISSAL OF YOUR CHAPTER 11 CASE PURSUANT TO 11 U.S.C. SECTION 1112(b)(10).

NOTICE

**DISCLOSURE OF INTENT TO USE TAXPAYER IDENTIFYING
NUMBER FOR THE PURPOSE OF COLLECTING AND REPORTING
DELINQUENT QUARTERLY FEES OWED TO THE UNITED STATES
TRUSTEE PURSUANT TO 28 U.S.C. 1930(A)(6)**

Please be advised that, pursuant to the Debt Collection Improvements Act of 1996, Public Law 104-134, Title III, § 31001(i)(3)(A), 110 Stat. 1321-365, codified at 31 U.S.C. § 3701, the United States Trustee intends to use the debtor's Taxpayer Identifying Number ("TIN") as reported by the debtor or debtor's counsel in

connection with the chapter 11 bankruptcy proceedings for the purpose of collecting and reporting on any delinquent debt, including chapter 11 quarterly fees, that are owed to the United States Trustee.

The United States Trustee will provide the debtor's TIN to the Department of Treasury for its use in attempting to collect overdue debts. Treasury may take the following steps: (1) submit the debt to the Internal Revenue Service Offset Program so that the amount owed may be deducted from any payment made by the federal government to the debtor, including but not limited to tax refunds; (2) report the delinquency to credit reporting agencies, (3) send collection notices to the debtor, (4) engage private collection agencies to collect the debt, and (5) engage the United States Attorney's office to sue for collection. Collection costs will be added to the total amount of the debt.

6. PREPETITION AND POSTPETITION DEBT

The debtor shall not pay any prepetition obligations unless authorized by the Bankruptcy Code or by Court order. The debtor must pay all obligations arising out of its operations after the filing of the petition in full when due.

7. MONTHLY FINANCIAL REPORTS

The debtor shall file original and one copy of monthly financial reports signed by the debtor or its authorized representative, with the Clerk of the Bankruptcy Court and shall serve a copy on the United States Trustee and upon each member of any committee appointed in the case. The monthly reports shall be in the form required by the United States Trustee or otherwise authorized by the Court. The monthly reports are to be on a calendar month basis and must be filed within twenty days after the end of the month. The reports shall include a copy of the debtor's monthly bank statements. Additional financial information and other information regarding the status of the case may also be requested by the United States Trustee.

8. TAXES

All tax returns and reports for postpetition obligations shall be timely filed and accompanied by payment in full of any liability. Such taxes include, but are not limited to, federal and state payroll withholding taxes, F.I.C.A. taxes, federal and state unemployment insurance, real property taxes, personal property taxes and sales and use taxes. The debtor

shall timely deposit sufficient funds in the debtor's tax account to pay any liability associated with the payroll. The debtor shall timely file returns for, but not pay, all prepetition taxes.

9. USE, SALE OR LEASE OF ESTATE PROPERTY

The debtor must obtain prior approval of the Court to use, sell, or lease property of the estate, except in the ordinary course of business. The debtor may not use cash collateral, as defined by 11 U.S.C. § 363(a), without the consent of the secured creditor or approval by the Court. The debtor must provide notice of any hearings to the United States Trustee in the same manner as that provided to creditors and parties in interest.

10. OBTAINING CREDIT

The debtor must obtain Court approval before it may obtain secured credit or incur secured debt, or obtain unsecured credit, other than in the ordinary course of business. The debtor must provide notice of any hearings to the United States Trustee in the same manner as that provided to creditors and parties in interest.

11. EMPLOYMENT AND COMPENSATION OF PROFESSIONALS

The employment of professionals (including, but not limited to attorneys, accountants, appraisers, or auctioneers) must be approved by the Court. Generally, professionals will not be compensated for services rendered prior to Court approval. No payments may be made to such professionals after the filing of the petition without Court authorization, after notice to creditors, and a hearing. A corporate or partnership debtor must be represented by an attorney; such debtor may not appear pro se.

12. CHANGE OF ADDRESS OR TELEPHONE NUMBER

The debtor must notify the United States Trustee and the Bankruptcy Court in writing of any changes of address or telephone number within 10 days of the change.

13. INITIAL DEBTOR INTERVIEWS

Within 15 days of the filing of the bankruptcy petition, the debtor and debtor's attorney will meet with United States Trustee staff for an Initial Debtor Interview ("IDI"). A person knowledgeable about the debtor's accounting procedures must attend the Initial Debtor Interview.

During the Initial Debtor Interview U. S. Trustee staff will inquire about the debtor's books and records, bank accounts, insurance, and the status of taxes. Debtors will also be reminded of their obligation to file schedules and a statement of financial affairs, prepare and file timely monthly reports, and pay the quarterly U. S. Trustee fee. United States Trustee staff will also inquire about the debtor's internal controls for safeguarding estate assets from loss.

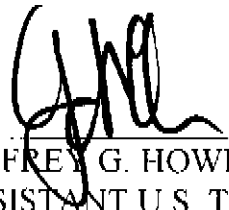

14. INTERNAL CONTROLS FOR SAFEGUARDING ESTATE ASSETS

The United States Trustee Program believes it is important that business owners and managers be aware of the need to ensure that proper internal controls are in place to protect estate assets from loss. Our experience has demonstrated that a business's accounting practices and procedures are often inadequate to deter and/or detect employee thefts or errors. This may be especially true during the difficult periods just before and after a bankruptcy filing. We have seen cases where employees have been able to steal significant amounts of money because they were given too much control over various cash management functions. The losses ruined any chance the businesses had of successfully reorganizing.

The United States Trustee Program does not evaluate your business's internal controls in detail. However, internal controls will be discussed at the Initial Debtor Interview and a supplement to these guidelines will be provided to the debtor in an attempt to educate you about the need to adequately safeguard estate assets and to permit you to begin looking at your own internal controls.

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MARK H. WEBER
ACTING UNITED STATES TRUSTEE
REGION XVIII

BY 
e-  JEFFREY G. HOWE
ASSISTANT U.S. TRUSTEE
DISTRICT OF IDAHO

INTERNAL CONTROL SUPPLEMENT

Internal controls play an important role in safeguarding a company's assets against unauthorized loss. This office has witnessed the devastating affect that the loss of assets can have on the debtor's chapter 11 reorganization. The loss experienced by the debtor can destroy the ability of the company to reorganize and have a demoralizing effect on the employees and management. An effective internal control structure can aid your company in a successful reorganization by helping it to achieve performance and profitability goals, prevent losses and produce timely and accurate financial information.

A business' internal control procedures are the policies and procedures established to provide reasonable assurance that company assets are adequately safeguarded against loss. In a small business, this control is accomplished by oral instructions and/or by day-to-day supervision by the owners. In larger businesses, internal controls involve a system of formalized authorizations with assignment of responsibilities for specific tasks to individuals throughout the organization.

Typical internal control procedures include proper authorization of transactions and activities, segregation of duties, design and use of documents and records to ensure proper recording of transactions and events, safeguards over access to and use of company assets and records and independent checks on performance.

Proper authorization of transactions and activities may include assigning an individual to review and approve all credits sales or requiring a business owner to review and approve all checks and wire transfers. Procedures such as these ensure that the established policies of the company are followed.

Segregation of duties is one of the most important and difficult areas of internal control. Failure to have adequate segregation of duties creates opportunities to embezzle company funds. Segregation of duties is accomplished by assigning different personnel responsibility for various functions. For example, the individual responsible for receiving cash or checks from customers should not be the person responsible for entering data in the sales or accounts receivable records. In a small business it is impracticable to have complete segregation of duties. However, this can be overcome by active owner involvement/supervision of cash management operations performed by employees.

Control features can also be designed into company documents. Sequential numbering of checks, invoices and purchase orders makes their use in an embezzlement scheme more difficult. Controlling access to and use of company

assets also prevents those assets and records from improper or unauthorized use. Access can be restricted by the use of computer passwords and by locking records in file cabinets or safes. These control procedures must also be checked periodically to ensure that they are being followed.

Following are some examples of thefts which have occurred because of poor or nonexistent internal controls. In one case, an employee was able to steal cash because he was also responsible for posting to the accounts receivable ledgers. It was not until after he stole in excess of \$33,000 that the theft was detected. In another case, a long-time employee had check signing authority and prepared checks to herself. This was not detected because the individual also reviewed the bank statements. It was discovered when the employee went on vacation and someone else reviewed the bank statements and noticed the unauthorized checks. Bank reconciliations should be performed by someone other than the person writing the checks.

An internal control structure consists of three elements: the control environment, the accounting system, and the control procedures. This supplement focuses primarily on the internal control procedures. If additional information is desired you should discuss with your attorney the necessary procedures for hiring a Certified Public Accountant (CPA) to assist you.

Chapter 11 Debtor-in-Possession (DIP) Internal Control Questionnaire

Case Name _____ Case Number _____ Debtor's
Representative and Title _____
_____ Date _____

General Information

1. What type of business does the debtor operate? _____
☐ Retail ☐ Manufacturer ☐ Service ☐ Wholesale ☐ Construction
☐ Other _____
2. What is the debtor's average yearly gross revenue? _____
3. How many employees does the debtor have (full & part-time)? _____
4. Who maintains the debtor's accounting records, and where? _____
5. If in house, how many employees maintain the accounting records? _____
6. Are employees bonded? _____ For how much? _____

Over the Counter Sales/Receipts by mail

7. Is a cash register with tape used? _____

8. Are prenumbered counter sales slips, cashier's receipts, or collector's receipts used? _____
9. If checks are received by mail, is a daily collection list prepared, and by whom? If bill stubs are received, how are they maintained, and by whom? _____

10. Are checks restrictively endorsed upon receipt, and by whom? _____
11. How often are deposits made to the company's bank account, and by whom? Who prepares the deposit slips? _____
12. Who records daily sales and accounts receivable receipts to the cash receipts journal or sales receipt journal? _____
13. Who records receipts to the accounts receivable journal and general ledger accounts? _____

Chapter 11 Debtor-in-Possession Internal Control Questionnaire (cont.)

Cash disbursements

14. Who authorizes payments to vendors and other disbursements? _____
15. Who prepares the payment check? _____
16. Are pre-printed or machine generated checks used? _____
17. Who controls check stock and voided checks? _____
18. Who has check signature authority? _____
19. Is a signature stamp or plate used? If yes, who has access to it? _____

20. Who mails the check to the vendor/payee? _____
21. Are cash payments ever made to vendors? How are these authorized, who makes the payment, and how are they documented? _____

21. Who posts checks written to the check register? _____
22. Who posts payments to the A/P register? _____

23. Who posts disbursements to the general ledger accounts? _____
24. Who opens the bank statements? _____
25. _Who reconciles the bank accounts? _____
26. __Who compares canceled checks against the check register? _____
27. _Are company credit cards issued to employees? If they are, does anyone review the invoices for appropriateness of purchases? _____

Notes: _____
